

**MINUTES OF MEETING
MIROMAR LAKES
COMMUNITY DEVELOPMENT DISTRICT**

The Regular Meeting of the Miromar Lakes Community Development District's Board of Supervisors was held on Thursday, July 10, 2014, at 2:00 p.m., at the Beach Clubhouse, 18061 Miromar Lakes Parkway, Miromar Lakes, Florida 33913.

Present and constituting a quorum were:

Mike Hendershot	Chairman
Doug Ballinger	Assistant Secretary
David Herring	Assistant Secretary
Alan Refkin	Assistant Secretary

Also present were:

James Ward	District Manager
Greg Urbancic	District Counsel
Paul Cusmano	Calvin Giordano & Associates
George Keller	Calvin Giordano & Associates

Audience

Mike Elgin	Miromar Development Corporation
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FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Ward called the meeting to order at 2:00 p.m. and the record reflected all members of the Board were present at roll call with the exception of Supervisor Donoho.

SECOND ORDER OF BUSINESS

Consideration of Minutes

a. June 12, 2014, Regular Meeting

Mr. Donoho indicated a change was needed on page 10, as there were many pronouns, wondering if the dialog referred to the Miromar CDD or the CDD for the development being formed over at the north lake.

Mr. Ward responded the speaker in the minutes was Mr. Elgin, and he was referring to the Miormar CDD.

Mr. Donoho thought on page ten, the word "begin" should be "being" responsible for.

Mr. Ward concurred it should be “being” responsible for.

On MOTION by Mr. Hendershot and seconded by Mr. Refkin, with all in favor of approving the June 10, 2014, Regular Meeting minutes as amended.

THIRD ORDER OF BUSINESS

Continued discussion/comment regarding the Fiscal Year (FY) 2015 Budget

Mr. Ward stated this was a carryover item with respect to the Board’s previous discussions and comments on the CDD’s FY 2015 Budget. He thought no further discussion on the topic was needed unless the Board had additional questions and comments. The matter of the FY 2015 Budget was set for a public hearing in September 2014.

Their were no additional comments from the Board.

FOURTH ORDER OF BUSINESS

Presentation by Mike Elgin of Miromar Development Corporation regarding the Alico property

Mr. Ward stated the subject presentation by Mr. Elgin was in regard to Center Place, formerly the Alico property.

Mr. Elgin remarked his presentation was a follow up from the last meeting in June, at which he did not have a presentation or exhibits that he gave to some of their homeowners’ associations (HOA). The documents he distributed to the Board, he mentioned were comprised of two documents: a composite aerial with the Center Place application overlay, and an internal document created in his office, so it would not be present in any of the application submittals. It was an exhibit he prepared to illustrate context and to provide a summary to the project. He noted the second document was the regulatory illustrative plan submitted with the application, clarifying the second document was stamp dated by Lee County in July, and it was the latest document available from the county from the applicant. When that document was compared to what was overlaid on the aerial document, there were some differences, as he was using one of the previous regulatory plans and, having received the document in the last few days, his staff had not had an opportunity to insert the new regulatory plan into the aerial composite. Mr. Elgin asked the Board to refer to the

illustrative as the most accurate depiction from the applicant, as it showed Miromar Lakes in its context.

Dr. Herring commented that the documents looked very similar.

Mr. Elgin agreed, stating one of the biggest notes the Board would see in the documents was the event lawn in the preserve area, indicating the applicant deleted that feature from the application based on their working with his staff, and due to residents' questions. The zoning process was very fluid as the applicant was going through it, and there were continual meetings with Lee county staff, as the latter asked questions and expressed concerns, and staff received letters from a number of residents and attorneys representing some of the residents. Thus, staff was constantly asking questions of the applicant, and the applicant continued to modify their plans through the process.

Some of the Board members had been copied documents, as they were voting representatives or alternatives for their neighborhoods; the representation for Bellini provided what he believed was a good document of questions, comments and concerns submitted to county staff the previous week, and those were distributed to all the Developer's voting representatives. The latter requested each distribute the information to their email databases to keep residents informed.

Dr. Herring commented that the document was brilliantly written, and the conversation he had with Rick Udaley, the Caprini representative, was that he contacted them about duplicating the document on Caprini letterhead. Mr. Udaley believed the document would not have much of an effect if it was just a copy, so the individual communities were trying to put their own spin on the document, though he doubted it could be said any better.

Mr. Elgin concurred, stating he had some email communication with Mr. Udaley, and he gave him some direction, and he distributed the document to representatives of other communities. He distributed documentation of some of the legwork in support of that effort.

Mr. Hendershot questioned who the Board would contact to get a copy of the Bellini submittal.

Mr. Elgin indicated he could provide the Board with the information via email to each Board member, as he would not be providing the Board with copies of everything at the present meeting; he would send the Board copies of the outstanding pieces. He provided a

baseline on the subject matter, stating the application was submitted in late 2013, and it was a zoning application; the Comprehensive Plan was amended to change the density from density reduction ground reduction (DRGR) area in 2009. The document listed the number of entitlements they could seek, and the land was currently zoned as agriculture due to the previous rock mining and crushing operation out there.

He mentioned the applicant was now required to try to obtain zoning under a compact community development, of which there was only one other in Lee County, and he opined it was appropriate for the subject area. However, it was what the county believed was necessary to move the property from the DRGR, a higher density product with a mixed use of retail, residential, and research and development components to it. It had a number of criteria, 1,950 units, and 250 hotel units, etc. The applicant was seeking zoning for what was provided to him in the Comprehensive Plan, and that was the composite presently before the Board.

Mr. Elgin went over a number of important factors from the Miromar Development Corporation's perspective: the latter was not in opposition to the applicant's development, but they believed that development needed to be done in a sustainable and cognizant manner in order to protect the interest of MDC in future development areas, as well as existing residents' use of their lakes, and the ability to maintain water quality. Some of the issues affecting the CDD Board were mostly related to the lakes, lake maintenance, water quality, etc., as these were factors for which the CDD had assets. For example, if pollution due to dewatering activities made its way down into the outfall swale and into the slew, that would be both the District's problem, as well as their problem, as this was part of the South Florida Water Management System, over which the CDD had operational control.

Components parts, as the District continued to develop and transfer from construction to operation.

Mr. Refkin recalled Mr. Hendershot speaking about increasing the impermeable, and having an effect upon the lake.

Mr. Elgin affirmed he had, noting he would give the Board a copy of the list of conditions they issued to Lee County staff. The Comprehensive Plan limited the developable footprint on the 919-acre parcel to 350 acres. Thus, from an impermeable standpoint, due to its being a compact community and it was very urban in its design, there was a lot

impervious space in the development pods. When it was looked at in totality, the impervious space was in fine areas with residue from the crushing operation. He felt the matter could be looked at two ways, concern over peak discharge due to the urban design, or a significant amount of impervious space because there was a lot of open space/non-buildable space out there.

He explained a good reason for his putting the plan over the aerial was that it showed the natural area, and it was better to estimate a baseline from where the berm with the Sabal palms were located on the property. The baseline indicated where development currently was and where it could not be.

Dr. Herring commented on where he foresaw a number of problems. The first was that he believed Miromar was not in opposition, but the perception of that comment was it would be one hand washing the other, and MDC would allow the new developer to get away with certain actions, so MDC could take similar actions in the future at another location. The residents he spoke with were astonished that MDC would not fight the proposed development tooth and nail, particular those residents who purchased new homes or were in the process of building new homes. Those residents assumed a particular piece of land would remain in its existing condition, and they were now being told it would not, and there was now the potential for their very costly home to possibly face a cinema.

He was unsure if this would present a public relations problem for Miromar Development Corporation, as residents expected them to oppose the proposed development, and Miromar's position had to be explained to the affected residents.

Mr. Hendershot wondered if some of the positions MDC had to take in opposing the proposed development would conflict with any future development MDC planned.

Dr. Herring affirmed this to be his point, that MDC was setting the stage for their own future development, even if it was slated for elsewhere, reiterating this was the perception of the current residents, The residents were concerned their property values would go down, and the quality of the lake would suffer.

Mr. Elgin rephrased the opposition, stating there was a difference between standing in front of the hearing examiner and expressing opposition to growth and development, which was what he did for a living, and doing it in opposition. The number of issues the residents expressed were things he would include in his list of conditions the MDC provided

to staff, asking that the same things that MDC were imposed with were also imposed on the proposed on the applicant/developer. Thus, there was a difference between opposing the application and the development of the parcel for any use, which was a no growth plan, and opposing the criteria the subject applicant was requesting deviations for or that they were saddled with.

MDC was in opposition, as the Board would see in the conditions when he distributed the lengthy list to the Board; for example, the water body setback, as MDC asked staff to include in their report and the hearing examiner would be asked to introduce that condition in her findings and conclusions. The zero-foot setback along water bodies be exactly the 20 or 25 MDC had within their DRI, and they asked that a beach 20-foot buffer be installed, similar to some of the landscape treatments MDC developed along FGCU's boundary to help buffer the dorms. He said the same buffers Bellini had on the back that separated view quarters in from the lake or Vivaldi view quarters from the club.

Mr. Elgin stated, while MDC was not in opposition to the application, they were cognizant there were numerous scenarios they developed in what they believed was a sustainable manner or helped FGCU achieve, that the subject property should also have the same restrictions. There were other elements in the list of conditions related to water management, as MDC compiled a good list that they submitted to South Florida Water Management District (SFWMD), and all were incorporated into the request for additional information at the applicant's first review with SFWMD. He mentioned Mr. Urbancic attended that meeting on behalf of the Miromar Lakes CDD, and he could attest to the county staff attending the meeting, being very accommodating and understanding of the deficiencies in the applicant's proposed management and design of the water management system, what the MDC's design was, and holding the applicant to that same criteria.

Mr. Elgin noted the applicant proposed that, based on their development footprint and their civil engineering design of the water management system, that adding one inch to the navigational lakes without changing the outfall structure was not going to have an impact on anyone. Based on past experience with hurricanes, etc., the latter prediction could not be made with any certain degree of accuracy, and the one-inch change, in his opinion, made a very significant difference, so the MDC consultant's opposed what the applicant was proposing to the agency, and the agency responded accordingly.

Dr. Herring asked if the agency should have known of such opposition without the CDD and residents objecting to the proposed development, asking if the agency needed to be retaught.

Mr. Hendershot answered yes, it might be necessary to reteach the agency, as they were a political body.

Mr. Elgin concurred, stating the agency had to be helped with understanding what the real concerns were to ensure the appropriate condition or emphasis was placed on the various issues. Each staff member of the agency had a different level of review of the plan, and it was likely some were more sharp than others. The full staff report was made available as of the previous day online and he printed it an hour ago, and he had yet to go through the entire document, but he was interested to see what the two pages of conditions stated, and whether they incorporated some of the ones he personally wrote.

Mr. Hendershot asked if the SFWMD were in charge of the water pressure in the area as well, from a utility standpoint.

Mr. Elgin answered no, that was a Lee County responsibility.

Mr. Hendershot stated this was another concern he had, as many areas in Miromar the water pressure was already an issue, and putting that extra demand without additional pumping stations, etc. to take care of the issue would make the situation worse.

Mr. Elgin commented the SFWMD's long-term modeling and factors for utilities incorporated such demands, and they had been working since 2009 since such potential development was included in the Comprehensive Plan, including some of the uses along Alico Road. MDC met with Lee County Utilities frequently, and it was clear the extension coming across the golf course, of which some of the Board members were well advised of, was only a force main, as it was a sanitary issue, not a potable issue. He said many of the flags seen in the staking along the east side of Ben Hill Griffin, those were investigatory things to locate existing facilities, as there were new Lee County utilities in design to service such future development and to support and better them.

Mr. Elgin said Johnson Engineering was responsible for doing potholing and surveying on all existing facilities, so they could be designed as the applicant went into the design phase, which the applicant was currently in. This would ensure infrastructure was located appropriately, as if it were too congested in the utility easement, the applicant had to ask for

additional utility easements outside of the right-of-way, and this was not specific to the subject project. Lee County would never make such a specific request, as the requirement was all a part of a bigger system.

Dr. Herring asked if Lee County staff ever prefaced comments to MDC with, “I’m not going to lie to you ...”

Mr. Elgin replied he had little trust for many county employees, and many acted like politicians. He went on to comment it was not possible to add density at a location that previously had no density, and them not understand that utility improvements adjacent to the location were not to serve or provide for the use.

Mr. Hendershot inquired if 951 cut through the subject 900 acres anywhere.

Mr. Elgin responded that it did not, as the 951 corridor was just outside the subject application area. The blank shown on the illustration were the Florida Power & Light (FPL) power lines. He indicated part of the Comprehensive Plan required the subject developer to donate land to the county for right-of-way for 951 and for the widening of Alico Road. Through previous applications, MDC already made such land dedications. The subject applicant/developer also owned the 4,000 acres; that is everything east of the power lines from Alico Road all the way to Corkscrew Road.

Dr. Herring asked if MDC attempted to purchase the subject property, or was that something MDC preferred not to put on public record.

Mr. Elgin replied he would not put answers to such matters on public record. MDC had always been interested, from a development and residential standpoint, in protecting its boundaries, for both the current residents and any future development areas. When the Comprehensive Plan was done in 2009, there was a 40-acre piece that was excluded from the subject application. The University tried to “cash in”, but the subject developer was the successor to the Alico property, and the latter had an agreement to donate 40 acres to the University, and when the current developer purchased the Alico property, that obligation was satisfied. He stated the Comprehensive Plan contained a memorandum of understanding or an agreement concerning development between MDC and FGCU and Alico and any successors that whatever happened to those 40 acres was controlled. That document discussed height restrictions, setbacks, etc., so when the parcel was evolving, the MDC felt the need to protect its immediate boundaries by working through an agreement with the

adjacent landowner to provide restrictions. He mentioned this document was a public record public, so Board members could read it if they desired.

Mr. Elgin remarked the intent was for there to be academic buildings, not dorms or housing specific to the University; the reason being that academic buildings were controlled by specific hours of operation. There would be typical classroom hours, basically a standard timeframe of 8:00 a.m. to 9:00 p.m., after which surrounding residents could feel comfortable knowing the site would become dormant when classes ended for the day. He discussed access road locations, stating the road located on the subject application was located at a distance setback from MDC's property line and was restricted by the agreement. MDC was always cognizant of its boundaries and the protection of existing and future development areas, and they dealt with setbacks and buffers and, in the subject location, MDC clearly shared developable land.

He noted another example was related to the amphitheater proposed by the applicant, and MCD asked that the amphitheater be located a minimum of 1,000 feet from the developable shoreline into the property. The applicant proffered some proposed language and conditions to accommodate such development, so to the extent that a Sorrento resident would be concerned, the outdoor entertainment would be pointing away from residential development.

Mr. Hendershot questioned if there were any height restrictions on the buildings the applicant could place at the subject site, particularly along the northern strip, as the plan submitted seemed to indicate there might be buildings of five or six stories.

Mr. Elgin affirmed this to be the case, stating this had been something that evolved within the last 24 hours, and the applicant was permitted to do up to 65 feet, as MDC was allowed to do in Miromar Lakes under the University community land use category. The applicant had areas denoted on his land use table as 45 feet. He saw a document the applicant offered to county staff at the on July 9th requesting an increase to that height. This was a change that would get the MDC's attention and warrant their looking closely at the land use table to see what zones a 65-foot building would be appropriate. He stated when he met with Bellini representatives to go through a similar discussion as the present one, they discussed the restrictions, so MDC needed to go through the documents to see if what the applicant requested in the core plan was applicable elsewhere.

Mr. Hendershot inquired as to the name of the other compact community in Lee County.

Mr. Elgin believed it was located on McGregor, but he did not know the name of the community.

Mr. Hendershot wondered if there had been issues that surfaced after the development of that community was completed.

Mr. Elgin felt that development was different from what the applicant proposed, as the unique nature of that development was the lake and the joint use of the lake, and the draft document containing the MDC conditions was the working document that he had one of his consultants, a marine engineer, put together in a three to four-page document. The document spoke about the marina, boat access and stabilization; it was worth reading, as some of the conditions Bellini wrote in were included in the conditions.

He mentioned one of the factors on the aerial view he provided that was different from the applicant's plan was the marina tag disappeared, and was now being called an observation pier. However, regardless of the label, the questions still remained: would there still be boats, a fueling component and, therefore, a potential for dealing with issues such as spills or contamination; whether there was a control program in place, and was there a plan that would be executed in the event of an accident. He stated one of the most significant points they would proffer to the hearing examiner related to what the Board should consider doing with regard to the lake, as some of the CDD's neighbors and residents suggested. To the back of the HOA documents was a large section on marine activities, and it spoke specifically about dos and don'ts related to prevention, etc.

Mr. Elgin commented the MDC had yet to see a plan that addressed such issues presented by the applicant, but they wanted the zoning to include a condition that said such a plan would be in place and to which entity would the responsibility of management and maintenance fall.

Dr. Herring wondered as to whether the subject applicant would have the same restrictions as the District.

Mr. Elgin responded this would be the effort at the hearing, to have the hearing examiner to build into the conditions.

Mr. Hendershot believed the lake use agreement was more recreational and did not apply to much of the areas the Board was now discussing.

Mr. Elgin affirmed this to be the case, noting, for example, MDC asked county staff if they asked that if the length of the pier were scaled off, it would be 200 feet longer than the pier at Fort Myers Beach, to which the staff responded that it was graphic. MDC then suggested a condition be included that said the commercial dock would be no more than 50 feet out into the water, the same that the District's observation pier at the Beach Clubhouse was subject to. He built the pier at the Beach Clubhouse and believed it to be 48 feet, and he was unsure of the constructability of that, but the MDC wished the CDD and residents to attend the hearing, so the above concerns for the lakes could be brought up. The applicant should be subject to the same requirements as all entities that shared the lake, and this was a very simple position from a marine standpoint.

Dr. Herring inquired if MDC could make that argument or did that point have to come from a resident.

Mr. Elgin responded it was in the conditions they proffered to county staff, but the hearing examiner process was one of strengths in numbers, recurring themes, and hearing from various entities that had different interests. His method of rating his documents was clearly developer driven, as it was about future development and the protection of existing residence, and though he was not a resident, MDC had a financial stake, as did the Board members. Board members who attended the hearing could represent themselves as residents or Mr. Urbancic could direct the Board on how the CDD needed to be represented at the hearing; thus, there were multiple ways for the District to have representation at the hearing. He thought it was important for the hearing examiner to hear varying perspectives, as it would help her to put things into context.

He opined, if the Board members were friends with any residents of the Club at Grandezza, they should advise them that inciting hysteria among fellow residents was not the appropriate route to take with the hearing examiner. Emotion got one so far, but it had to be based in fact, and requests for conditions had to be based on something substantive. He noted the MDC was restricted by the lake use agreement; for example, there was a resident who wanted to extend his dock beyond the 35 feet he was permitted. That was not likely to be approved, as the adjacent land owner sat on the Lake Use Committee, and he

asked for them to provide an exemption for that resident to handle a hardship, but that exemption had yet to be provided. The resident did not realize that if he was granted that exemption, however, the MDC and the CDD had less of an argument when asking the hearing examiner for restrictions.

Dr. Herring questioned as to the mechanism for the upcoming hearing, as he planned on attending and wondered if he had to put in a formal request to speak.

Mr. Elgin answered yes, but the formal request could be done on the day of the hearing by going to the hearing examiner's room, fill out the necessary form with basic information. Those wishing to speak in the hearing would then be called up to speak in the order in which written requests to speak were submitted. He mentioned that the applicant indicated to county staff that the first hearing date was July 23, 2014, and they reserved three consecutive days to go before the hearing examiner. Staff indicated the applicant stated they would take all three days to present their case in chief, meaning if a board member was at the hearing examiner's office to fill out the request to speak paperwork on the first day, there was a chance the process would not get to them until many days later or even on an alternate day if necessary.

He noted, based on past experience, residents could ask the hearing examiner to provide an exemption at the end of the day for members of the public who could not return on subsequent days, allowing them to speak toward the end of the first day. However, residents might find it helpful to sit through the applicant's presentation, as it could shed light on many issues that might have been misrepresented by the residents' leadership in an effort to motivate residents to attend the hearing. He reiterated the hearing process might be a long one.

Dr. Herring inquired if there was any possibility that the subject application would not go through, or was the process at a point where the application would go through, but the MDC and the residents should have their say in what the requirements should be.

Mr. Elgin responded the latter situation was the more likely, as in his professional opinion, even with the biggest push possible from MDC, the residents, etc., he did not think seeking a denial of the application would be successful. The time and money would be better spent working on how MDC and the residents might be affected and to seek conditions that would protect their interests.

Dr. Herring wished to know if the applicant would create a new CDD for the area.

Mr. Elgin thought this was a great question, as it was an issue that had yet to be discussed by MDC, but one the Board should discuss with the guidance of Mr. Urbancic. The questions MDC asked that the CDD should ask concerned the fact that the CDD carried a lot of the freight for the maintenance of the lakes, though the District's responsibility was for only a few 100 feet off the shoreline. He said there were clearly other issues, but it was a fair question by the Board to ask the hearing examiner which entity the applicant intended to put in place for the long-term management and maintenance of the system that was shared with the CDD. There could be a property owners' association (POA) rather than an HOA, as it was not going to be a single-family, deed-restricted scenario, as theirs was a multifamily development that included rental and commercial components.

A CDD made some sense based on the big infrastructure items included in the plans, but he was unable to answer questions as to what the applicant was thinking.

Dr. Herring commented the subject applicant was unlikely to monitor the situation as well as a local, regulatory body.

Mr. Elgin stated this was an excellent point, noting in MDC's conditions, they asked for an entity or a lake management plan, including water quality testing for the first five years at designated points; some of these were written into their conditions. He felt a better question from the Board would be what was the applicant's entity that would present in perpetuity. He said the CDD and the Board would eventually have to communicate with that person to define and compare lake management plans to ensure the District's staff was not doing all the work, while issues the applicant faced on their property were not being funded and, therefore, could be contaminating the District's side.

Dr. Herring asked if Mr. Urbancic would be attending the hearings considering how long it might go on.

Mr. Urbancic responded that he had planned to attend the hearing, though he did not know it would go on for three days; he blocked off July 23 to be present at the hearing to speak to the CDD's concerns.

Dr. Herring felt it was reasonable to ask Mr. Urbancic to present those concerns.

Mr. Hendershot indicated the Board already asked Mr. Urbancic to do so a few meetings prior.

Mr. Elgin distributed a number of documents to the Board that included the MDC's list of conditions they provided to county staff when they met with them the previous Monday and prior to the staff report that was generated. The conditions were reviewed item by item with the attorneys, planners and him. He also provided the background information that helped generate those conditions, as well as three documents: one by the marine experts, another was the civil engineering information provided per the Board's direction with SFWMD, and the third document was from one of MDC's civil engineers. He urged the Board to review all the documents and recommended that they give their feedback via email to Mr. Urbancic directly, not to other Board members, so as to abide by the Sunshine Law requirements, and Mr. Ward should receive a copy as well.

He would redistribute the Bellini letter via email, and the Board could provide individual feedback to Mr. Urbancic; as the Board's representative, he could outline the CDD's position, noting this was the most effective tool. Board members were encouraged to speak individually at the hearing if time permitted, both as a member of the CDD Board and as a resident, stating how they felt the subject application would affect them.

Mr. Hendershot asked about the access between Miromar and Center Place, whether residents of Miromar could go via boat to Center Place's 50-foot dock to watch a movie at their town center.

Mr. Elgin replied absolutely. On the other hand, people from Center Place did not have rights to sit at MDC's grill and eat, as the District and MDC's property were privately owned.

Mr. Hendershot commented, as Margaret owned the smaller lake, her rights were stronger there, and since hers was private property, could she block the University or anyone wishing to go through if the situation became acrimonious..

Mr. Elgin referred the Board to the lake use agreement, as that agreement, and by virtue of how the MDC acquired the properties, contained a designation location for the lake cut and whose obligation it was. There was a legal description that went with the lake use agreement that provided access to all parties and successors to that. He stated the legal description that accompanied the Lake Use Agreement did not include any of the lakes around the back, so, theoretically, Center Place would not be permitted to have any access through the private channel MDC developed that was excluded from that legal description.

Dr. Herring noted, since the dirt bridge was taken down, there was now access in the back, and if FGCU acquired the 40-acre parcel, would the District be able to take care of its landscaping needs along the berm via that parcel.

Mr. Elgin answered yes, reiterating that the 40-acre piece of property had a number of restrictions; for example: parking lot lights and street lights were limited to a maximum of 18 feet overall. He felt MDC did a good job saddling that parcel with restrictions that would help protect existing and future residents.

Mr. Hendershot sought confirmation FGCU could not put their football stadium on that parcel.

Mr. Elgin recalled, based on how the agreement and restrictions were written, there was a prohibition on recreational facilities on those 40 acres.

Dr. Herring stated, if the regulations were followed to the District's liking, the zoning was changed, and the development went in, what would be outcome if the applicant sold the rights to develop that land to another entity.

Mr. Elgin replied the zoning and the conditions ran with the land.

Dr. Herring opined it would not be totally unrealistic to state that once the application was approved, the MDC could purchase the land at some future date.

Mr. Elgin suggested that once the zoning and entitlements were obtained, it was the intent of the subject developer to sell portions of that property.

Dr. Herring believed the applicant's main concern was making the land developable rather than actually developing the land.

Mr. Elgin commented, based upon his professional opinion and what he knew about the developer and the subject property and what was proposed, the amount of commercial in the area and what was proposed in the entitlements far exceeded anything that was viable and sustainable in today's marketplace. He questioned why anybody would drive past Town Center, Coconut Point or Miromar Outlets on their way to some destination retail after passing the same stores or venues on the way to getting there. The applicant faced an enormous task trying to parcel the land off and sell it in that capacity, and he thought the developer was doing exactly what Dr. Herring suggested about making the property developable, as the applicant's history as a developer was to flip properties. For instance

student housing was listed on his application, so the District and MDC could anticipate this as one reasonable outcome.

The applicant's goal was to obtain entitlements, regardless of the viability, and the challenge for the MDC and the District, as indicated in some of the conditions, was about what the property might be turned into after the entitlements were gained. Mr. Elgin stated it was easier to get entitlements and then modify them, as opposed to trying to change what the Comprehensive Plan was and go at it in a different direction, but entitlements were just entitlements. In the transportation section of the MDC's conditions, there were a number of suggested requirements that protected all parties. He indicated MDC believed the applicant should only be allowed to develop and CO a set number of residential units until a certain amount of commercial development was delivered. If a developer could not develop a commercial component, then that developer would have a limited amount less than what the full entitlements were of residential that could be developed.

Mr. Elgin opined this led the subject developer into the viability question, as the aim was for the community to be self-sustaining with a balance of commercial and residential development complementing each other. It was likely that there would be phasing in to help protect the intended purpose of the Comprehensive Plan as it pertained to compact community laws. He felt this would further restrict the applicant's ability to develop the subject property, as some of the entitlements were nonviable; there was already a glut of available commercial on Ben Hill Griffin Road and some of the surrounding areas. MDC discussed this matter at length because of their own University Village to the south, the amount of square footage, and the viability of square footage based on location. He said they were aware of what the Estero Report put out and that they were trying to convert a lot of the commercial into residential based on their belief there was too much commercial in the area.

Dr. Herring asked, as a worst case scenario, was the District looking at something happening on the applicant's property in the next ten years, if at all.

Mr. Elgin thought there would be development within the next ten years, as in the applicant's media releases, it was suggested that construction would begin in about 2018, and the District should expect some initial phases or parcel sales with the entitlements, along with the installation of some initial infrastructure within the timeframes presented.

Dr. Herring sought clarification that once entitlements were obtained, it was easier to change them.

Mr. Elgin affirmed it was so in his opinion.

Dr. Herring wondered if the applicant received an entitlement to build a pier on the subject site and was restricted to 50 feet, once the permission was granted to have a pier, could the applicant then seek to get that extended to 75 feet.

Mr. Elgin answered no, he did not meant that type of entitlement, as that type of change would be a condition of the zoning. His comments were more related to density, a more big picture look and, in his experience as a planner, he felt the applicant knew he would struggle with the commercial component and would want to move towards developing a residential component. Once the entitlements were gained as provided by the Comprehensive Plan, it would be possible to later ask to move the pieces around, try to convert uses, etc., and though MDC had not yet seen this in the application, they knew the requests were coming. He noted there was a conversion table that said X square feet of office could be converted to retail at a set ratio, and they asked for but had yet to see the information, as a developer always wanted to have conversion factors in their favor.

Mr. Hendershot asked about a dark area on the map provided to the Board.

Mr. Elgin explained, referring to the second page in the document, when his head tech cut out the picture to put over the aerial, he had to cut out the insert. It was not a difference in anything, it was a matter of how they cut and paste the pictures.

Mr. Hendershot inquired if the representatives from Bellini had seen copies of the documents Mr. Elgin distributed to the Board.

Mr. Elgin affirmed they had, stating about a week and a half prior, they reached out to him, as they wanted to generate their letter, and he did a very similar presentation to Bellini, followed by a Q&A session and provided them with copies of the documents. They later used the documents to help draft their letter. He noted Bellini had not seen the conditions, as they were relatively new, though the representative might have seen a previous draft, but MDC made further changes along the way, and he did not recall if he sent Bellini an updated version.

Dr. Herring asked if Mr. Elgin helped Bellini with their letter.

Mr. Elgin responded he did not participate in crafting the actual letter, though it evidenced excerpts taken from some of his consultants reports, which he freely shared with them, as he was doing with the Board. He believed the goals of the developer and the residents and the neighborhoods in the CDD were collective, and he appreciated and heard from some of the residents who were wondering why MDC was not in opposition to the applicant, why they had not purchased the property. He answered such inquiries to the best of his ability, commenting that prior to the change in the airport concourse, they had a resort village called the Signature Shops, and there had been discussions about building a five-star hotel. MDC had and still did have entitlements for hotels, as well as 250,000 square feet of commercial, and 300,000 plus of office and R&D.

MDC's original plans had many similar commercial components inserted, and in those days such entitlements added value in the ability for residents to be able to boat over to the pier of the hotel and have dinner. They proposed similar uses adjacent to the lake to help support their residents, etc. in the earlier days. He stated, subsequently, MDC moved their entitlements, shifted zoning directions to enhance the viability of their property, and theirs was not a compact community. Some communities, such as Grandezza struggled with being able to trust developers, as they could not know whether the development presented to them would be actually executed in the manner proposed.

Mr. Elgin commented he could speak directly to the standards MDC developed by, and he knew the plan of the applicant's project was no different than any of the others MDC did. Some of the other thoughts the Board might take to the examiner included that though they understood the entitlements, theirs was a luxury boating and golfing community, and they were concerned with the level and quality of development the applicant proposed.

Mr. Hendershot remarked the residents were willing to pay the premium Miromar Lakes demanded on the expectation that they would have quality development, and good water and lake management.

Dr. Herring thought that if MDC presented the exact plans as the applicant, there would be far less consternation from the residents than with a less familiar developer presented them.

Mr. Elgin concurred, as the residents understood what MDC was all about, having seen their work.

Mr. Hendershot agreed.

Mr. Elgin believed this had always been one of the elements of concerns, noting he was present when that developer made their presentation to FGCU when they were working in tandem with them on some of the donation pieces. The developer had worked hard trying to get out from under the flipper tag and developing in the way people perceived his father and him.

Mr. Hendershot asked the name of the developer.

Mr. Elgin replied that his name was OJ Buigas, the CEO of Private Equity Group, and the Board could visit their website to view all the officers in the company. He did not know Mr. Buigas very well and relied on people who dealt with him in Lee County.

Mr. Ballinger stated the documents contained the name AWG, Alico West Group, asking who they were.

Mr. Elgin responded the LLC they formed to purchase the subject property was Alico West Fund, Ltd. or LLC, and this was just an entity that Private Equity Group for that property, as was his practice.

Dr. Herring wished to know what other properties Private Equity Group owned that the Board would be aware of.

Mr. Elgin indicated some of the assets were listed on the website, including shopping centers, other properties in the Cape, but he did flip properties frequently, reiterating Board members should visit the website to see what properties were listed currently.

Mr. Hendershot asked if the big lakes on the Verona property were on the other parcel.

Mr. Elgin affirmed they were. He believed that lake was being donated as part of the application to Lee County for a public park; it was one of the donation pieces to FGCU before the University chose not to execute the donation agreement. Time was of the essence to some extent, and the county staff reports were already written, so input from the Board and the District could be submitted to the hearing examiner in writing in advance of the hearing. He stated that county staff was obligated if the District and residents communicated with them to enter it into the record as receiving information or queries on the subject project/application. Such written communications could be copied to him.

He mentioned MDC representatives and their attorney, Neale Montgomery, would hold a strategy and prep meeting on the developer's end, and they needed to determine how county staff and the hearing examiner would receive the Board's and the residents' participation at the hearing. If the hearing went on for multiple days, it could become laborious for those sitting in the audience, not at the table. He preferred to be efficient and to get the communications out there and be as effective as possible.

Mr. Herring thanked Mr. Elgin for going through the subject matter at length with the Board.

Mr. Hendershot mentioned, on another matter, in previous minutes, it was discussed who owned the water or that nobody owned the water, etc., but that the District owned the land under the water. He questioned why residents had to pay a water management fee to Tropical Water Supply.

Mr. Elgin believed the use rights were held by that LLC, and that was the key component.

Mr. Ward concurred.

Mr. Elgin stated MDC or Tropical Water Supply was an entity, and MDC was required under the SFWMD to maintain a water use permit that allowed for the extraction of water from the aquifer, whether it was surface water or wells. MDC had designated locations and well points that were allowed in the permit, giving the use and rights of that water. Chris **Unclear 1:15:45** provided pumpage reports quarterly to SFWMD to make sure MDC was not in violation of their withdrawal rate.

Mr. Hendershot wished to confirm that was a MDC company.

Mr. Elgin answered yes.

Dr. Herring asked if the fountain that was put off at six by Lake 3A made any difference in the noise pollution from the road.

Mr. Hendershot thought the fountain was large.

Mr. Elgin remarked, for the record, it was an aesthetic fountain that would be maintained by that association, and the CDD had no obligation to maintain that fountain.

Mr. Ballinger inquired if that had changed, as the Board was told that it was the CDD's responsibility to maintain that fountain, and he thought that should have been a property owner/association duty.

Mr. Elgin stated any feature that did not provide any benefit to the water quality, such as subservice aeration devices, etc., the District was not responsible for maintaining.

Mr. Ward believed this was not what the District did.

Mr. Hendershot recalled the District agreed to maintain it.

Mr. Ward affirmed this to be the case.

Mr. Hendershot indicated he never thought this to be a good idea.

Mr. Ward commented it should have been deeded to the CDD however it was done, such as through a bill of sale, etc.

Dr. Herring asked if that was the same lake that Mr. Byal spoke about at a previous Board meeting.

Mr. Hendershot recalled Mr. Byal stating they would buy the fountain and the CDD would be responsible for maintaining it.

Mr. Ward affirmed this was what was said.

Mr. Elgin commented that he was not present at that meeting, and he would have to look over those Board minutes. However, he controlled the HOA down there, and they were getting ready to turn over the HOA over to the residents, and clarification was needed as money had been budgeted for the maintenance of the fountain; the matter had to be resolved.

Mr. Ward remarked if the developer would maintain the fountain, then something different would have to be done than previously; the District was fine with not having that responsibility.

Mr. Hendershot stated the money credited to the District had a much broader overall benefit to the community than the isolated HOA budget on the other side.

Mr. Ward concurred, stating the District had no formal agreement with the HOA to permit the fountain to be installed or for the District to maintain it. The District had put in the fountain and took it over as a CDD asset, but if the developer wished to do it the other way, the District was comfortable with that.

Mr. Elgin questioned how the District could consider the fountain as an asset.

Mr. Ballinger replied because the aeration system was given to the CDD.

Mr. Elgin asked by what mechanism was the aeration system conveyed to the CDD.

Mr. Ward believed it was supposed to have been done via a bill of sale.

Mr. Elgin stated he was unaware there were any issues, nor was he suggesting there were any, and the question was better put to the MDC's engineer. However, in his opinion, it was a matter of the definition of an aeration device, and the difference between an aeration device providing a benefit to the water management system and an aesthetic fountain.

Mr. Ward felt it did not matter, as the simple answer to the question was that if the District wished to install a fountain, they could, but if MDC preferred that their POA maintained the fountain, the District had no objection, the financial arrangement for the fountain's maintenance just needed to be done differently than it was done previously. He specifically remembered how the fountain came to be installed and maintained.

Mr. Elgin reiterated that the HOA would be turned over to residents in the near future, and he would no longer have any responsibilities in that neighborhood, as they would have their independent manager.

Mr. Ballinger wished to know who should follow up on the fountain matter

Mr. Ward responded he would take care of the matter with Mr. Urbancic.

Mr. Hendershot noted if the District did nothing, the homeowners would take over the fountain's maintenance as part of their budget, and the District would amend its budget.

Mr. Ward said the District did not have a huge cost in its budget to maintain the fountain anyway.

Mr. Ballinger felt that it set a precedent.

Mr. Ward agreed it did set a precedent on that particular issue, as it allowed a POA to go into a District to maintain a structure, with there being no agreement between the CDD and the POA to permit them to go into the District's asset to maintain it. Thus, the CDD would be taking on a liability when the POA's vendor went on District property to maintain their assets. He felt it also raised the question as to which entity was insuring the asset, and in the particular case, the fountain was on the District's books at the moment. If this was the Board's desire, this was fine, but that was not the way the fountain and its maintenance was done.

Mr. Ballinger thought the rest of the Board felt as he did, that is, they preferred the maintenance of the fountain to be passed to the HOA of discussion.

Mr. Ward reiterated that was acceptable, but the process had to be formalized.

Mr. Refkin concurred.

Mr. Hendershot questioned if there would be a coordinated effort with regard to resident representation at the July 23 hearing.

Mr. Elgin replied if he was made aware of legal representation representing a resident, and they reached out to him, they were provided with the same information he provided to the Board at the present meeting in a coordinated effort.

FIFTH ORDER OF BUSINESS

Staff Reports

a. Attorney

No report

b. Engineer

No report

c. Asset Manager

Mr. Cusmano spoke to Estate Landscape to make sure they had everything set and coordinated with Chris from the golf course regarding preparing for the hurricane season. Everything was cleaned and trimmed up. They took care of the pond issue brought up at Siena by the guardhouse, where they went in and treated the algae again, and it appeared to be cleaning up.

Mr. Refkin recalled there had been a discussion at a previous meeting as to where the residents' and the MDC responsibilities lay.

Mr. Hendershot thought that matter had been clarified at the last Board meeting.

Mr. Refkin commented he meant as far as fixing the erosion issue.

Mr. Cusmano said the other erosion issue was backed by San Marino, where they had cleaned up the area in the back, and they were fixing it as they went along; WCI had fixed what was needed thus far, and they would finish the rest as they were doing the other lots.

Mr. Hendershot thought that created good precedent.

Mr. Elgin affirmed Mr. Cusmano spearheaded a significant portion of the ongoing coordination, but from a developer to the CDD, they had to be held to a standard as they completed lots down there, and he believed they got the message.

Mr. Cusmano concurred, stating all the debris was removed, and it was difficult to manage, but the workers went in and cleaned up the area, such as garbage in the ponds

and lakes. He checked the aerators down by 6E and 5F, and they were all working well with no problems, and the berm was checked and he was looking at some infill that was needed throughout the project, so he would have Estate send him some pricing, which he would present at the next Board meeting. The accident issue would be **Unclear 1:27:09**, so they would fix the one on Ben Hill Griffin Road where the Corvette hit the tree. There was a more recent accident that tore up all the landscaping in which someone died; he was waiting for the police reports, so the District could go against the insurance company for that.

Mr. Refkin recalled details of the latest accident in which a driver drifted off and hit the tree.

Mr. Hendershot noted he had some residents ask him about an issue with the grass carp killing the lake, as there were too many, and one resident thought the carp were being too efficient.

Mr. Elgin commented on a few things he had been working on that he had not yet made Mr. Cusmano aware of, including bringing the CDD into those matters, as he was handling it from a developer's perspective at the moment. Based on a number of concerns expressed by residents, and there were two camps; there were recreational people, meaning skiers, who loved the lake, because the Hydrilla was gone, and the grass carp did a great job. The CDD Board should continue to stand by its previous decision to choose a natural rather than chemical method to deal with the Hydrilla, as it was still a valuable position.

He said in the other camp were the fishermen who, now that the Hydrilla was gone, felt it provided less habitat for the bass, and it made fishing a little more difficult. The latter group believed the carp had done too good a job, and that the bottom had no Hydrilla. He stated Hans Wilson inspected the lakes and made a number of recommendations to him from a monitoring standpoint, and the equipment was not expensive, so he coordinated with their marine services to do much of the work internally to gauge and monitor their lake. This was for simple tasks, such as dissolved oxygen levels.

Mr. Hendershot mentioned the District was required to do that for the NPDES anyway.

Mr. Elgin affirmed this to be the case, to some degree, but what the MDC did with their bathing place, it was a different test. Even something as simple as a clarity test, which was a very cheap task to do, and his staff could do it at designated points to get up a

baseline of what was taking place with temperatures, rainfall, runoff, etc. He met with a number of concerned residents in small groups, as they expressed interest in doing a walkthrough in some of the monitoring procedures. MDC agreed in the last meeting with one of the more vocal resident groups, and the agreement was to revisit the matter in the fall, as the rainy season was about to begin, and data could be gathered through the summer months.

He said those residents asked a participant from the University, one of the professors that did extensive work on Lake Trafford, including revegetation, to join the residents and MDC at a few meetings to talk through some of the concerns and observations, etc. That discussion was ongoing, and MDC hoped to potentially engage some of the University and, maybe some of their academic programs to help track and monitor some of the things on the lake. The professor's request was to purchase for him \$15,000 to \$20,000 worth of equipment, so he could do a better job, but this was not something he thought the Board, developer or the residents wished to or should entertain at this point. MDC asked Florida Fish & Wildlife to do an assessment of the District's lakes, now that they had been in for a number of years to determine if the effectiveness was where they wanted it to be.

Mr. Elgin thought there was an equilibrium that needed to be established, as the grass carp got very hungry, they were very small at first and were now growing. The Hydrilla was not growing through the winter season, so there was less Hydrilla, and at some point the grass carp's appetite slowed down. He recalled recommending at the time of the Board's decision to use the grass carp that after a five-year period or so, the District had to get into a replenishment program. By natural processes, they would eat less as they got bigger, and they would die off to some degree, and then a better balance could be struck with the Hydrilla and carp in the lakes. He believed it was premature to make knee-jerk reaction decisions.

He noted the biggest thing that the consultants, as well as the professor, encouraged, and this might be a CDD project, was education on what was being done to monitor and to continue to work toward a lake management program. This was part of the CDD, and he believed it was part of the HOA's responsibilities.

Mr. Hendershot said this was main issue, and he doubted anyone had a problem with what MDC had done, as they had done a great job with it, and the Board was willing to stand by its decision.

Mr. Ballinger inquired if there was a decibel level for the University in the agreement with the FGCU about having parties, etc., as the sound really traveled across the lake.

Mr. Elgin responded there was an agreement as to hours of operation, but there was no component of a decibel level to his knowledge.

Mr. Hendershot stated the only decibel level he was aware of was the Airport Authority zoning, questioning if that had been amended.

Mr. Elgin affirmed it had a number of years ago.

d. District Manager

I. Updated Board agenda schedule for balance of FY 2014

No discussion.

II. Financial statements for the period ending May 2014

Mr. Ward stated a meeting was scheduled in August, but he had no agenda items for the Board to consider, so the Board could cancel the meeting unless some matter came up for the Board to discuss. There would be a meeting in September, as this was the public hearing on the District's budget, and he did not think there were any more changes to the budget thus far.

Mr. Refkin opined the Board could schedule an August meeting, and if there were no agenda items to discuss, the meeting could be canceled.

Mr. Ballinger thought it was possible that the matters that would transpire at the July hearing could be discussed at the August Board meeting.

Mr. Ward pointed out this would require Mr. Elgin's attendance at the August Board meeting.

Mr. Elgin remarked, as the hearing examiner's schedule might be full, if the hearing was not completed in the three days allotted, the next available date might be two or three weeks from the last date of the hearing.

Mr. Hendershot wished to know if the District was making only an oral presentation or would there be something submitted to the hearing examiner in writing.

Mr. Urbancic responded he would discuss the matter further with Mr. Elgin and determine what the best course of action would be; the submissions might be both oral and written.

Mr. Elgin commented, as an example, he could say the CDD already submitted something on the record, as indicated in the backup documents, via its engineer of record.

Dr. Herring inquired if individuals could make written presentations as well.

Mr. Elgin stated another thing that the appearance of District representatives and individual residents did at the hearing was, if a Board member spoke on the record at the hearing, it preserved their right to speak at the Lee County Board of County Commissioners when the matter went before them for a final vote. Thus, if Board members and residents did not speak at the hearing, they would forfeit their ability to speak later.

SIXTH ORDER OF BUSINESS

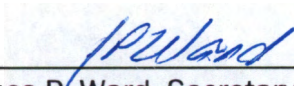
Supervisor's Requests/Audience
Comments

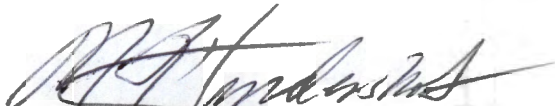
No discussion

SEVENTH ORDER OF BUSINESS

Adjournment

On MOTION by Dr. Herring, seconded by Mr. Ballinger, with all in favor of adjourning at 3:45 p.m.


James P. Ward, Secretary


Mike Hendershot, Chairman